

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EON CORP. IP HOLDINGS, LLC,

Plaintiff,

vs.

T-MOBILE USA, INC., et al.,

Defendants.

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Civil Action File No. 6:10-cv-00379-LED

JURY TRIAL REQUESTED

**NOTICE REGARDING STATUS OF WALMART’S MOTION TO DISMISS AND
PLAINTIFF’S THIRD AMENDED COMPLAINT**

Defendant Wal-Mart Stores, Inc. (“Walmart”) moved to dismiss Plaintiff EON Corp. IP Holdings, LLC’s (“EON”) Second Amended Complaint on October 29, 2010. (*See* D.I. 105). EON failed to file a timely opposition to Walmart’s Motion to Dismiss that was due on November 15, 2010.

However, on November 18, 2010, EON filed (1) a third “Amended Complaint” in which EON amended its pleadings against Walmart and other defendants (*see* D.I. 156) and (2) its untimely Opposition To Walmart’s Motions To Dismiss. (*See* D.I. 157). In light of the foregoing, Walmart understands that: (1) the third Amended Complaint is the operative complaint against it in this case, and (2) the third Amended Complaint renders Walmart’s Motion to Dismiss the Second Amended Complaint moot because it supersedes the Second Amended Complaint. Accordingly, Walmart notifies the Court that it will not file a reply brief in further support of its Motion to Dismiss, and instead shall respond to the third Amended Complaint in the time period provided by the Local Rules and Federal Rules of Civil Procedure.

Dated: November 29, 2010

Respectfully submitted,

/s/ Victor de Gyarfas

Victor de Gyarfas

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CERTIFICATE OF SERVICE

The undersigned certified that NOTICE REGARDING STATUS OF WALMART'S MOTION TO DISMISS AND PLAINTIFF'S THIRD AMENDED COMPLAINT was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service.

/s/ Victor de Gyarfas